



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF AUGUST 28, 2014**

**CALL TO ORDER:** Vice Chairperson Jones called the meeting to order at 7:00 p.m.

**PRESENT:** Chairperson Pentaleri, Commissioners Bonaccorsi, Dorsey, Karipineni, Leung, Reed (arrived at 7:30 p.m.)

Teleconference notice - Pursuant to Government Code Section 54953, Subdivision (b), the following Planning Commission meeting will include teleconference participation by Commission Chair Pentaleri from: Hyatt Regency Hong Kong Sha Tin, Room No. 2537, 18 Chak Cheung Street, Sha Tin, New Territories, Hong Kong, China.

All votes were taken orally from each individual Commissioner.

**ABSENT:** None

**STAFF PRESENT:** Wayne Morris, Principal Planner  
Prasanna Rasiah, Deputy City Attorney  
David Wage, Associate Planner  
James Willis, Planner I  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Napoleon Batalao and Walter Garcia, Video Technicians

**APPROVAL OF MINUTES:** March 13, May ~~27~~ 22, and June 12, 2014, Regular Meetings were approved as submitted, but with May 27<sup>th</sup> date corrected to May 22<sup>nd</sup>.  
**Commissioner Karipineni** abstained from voting for the June 12<sup>th</sup> minutes, because she was absent on that date.

**DISCLOSURES:** **Commissioner Karipineni** drove by sites of Items 7 and 8.  
**Commissioner Leung** drove sites of Items 6, 7 and 8.  
**Commissioner Bonaccorsi** held telephone conversation with Item 6 representative.  
**Vice Chairperson Jones** met with Item 6 applicant and drove by sites of Items 5, 7 and 8.

## CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBERS 1, 2, 3, 4, AND 6.

IT WAS MOVED (BONACCORSI/KARIPINENI) AND UNANIMOUSLY CARRIED BY ALL PRESENT (**COMMISSIONER REED** ABSENT) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 2, 3, 4, AND 6.

- Item 1. **PACIFIC COMMONS DEVELOPMENT AGREEMENT ANNUAL REVIEW - (PLN2014-00142)** - To consider a City Manager's report on the annual review of the Pacific Commons Development Agreement for the approximately 840 acres of land west of Interstate 880, between Auto Mall Parkway and Cushing Parkway in the Bayside Industrial Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378.

FOUND THAT THE REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT SUBJECT TO CEQA PURSUANT TO CEQA GUIDELINES SECTION 15378 IN THAT THE ACTIVITY IS NOT DEFINED AS A "PROJECT;"

AND

FOUND ON THE BASIS OF SUBSTANTIAL EVIDENCE THAT THE PROPERTY OWNER HAS COMPLIED IN GOOD FAITH WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT, AS AMENDED THERETO, FOR THE PERIOD UNDER REVIEW (YEAR 2012-2014).

- Item 2. **CREEKSIDE LANDING DEVELOPMENT AGREEMENT ANNUAL REVIEW –(PLN2014-00243)** - To consider a City Manager's report on the annual review of the Creekside Landing (formerly King and Lyons) Development Agreement for the 159-acre property located at the northwest corner of Interstate 880 and Dixon Landing Road in the Bayside Industrial Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378.

FOUND THAT THE REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT SUBJECT TO CEQA PURSUANT TO CEQA GUIDELINES SECTION 15378 IN THAT THE ACTIVITY IS NOT DEFINED AS A "PROJECT."

AND

FOUND ON THE BASIS OF SUBSTANTIAL EVIDENCE THAT THE PROPERTY OWNER HAS COMPLIED IN GOOD FAITH WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT, AS AMENDED THERETO, FOR THE PERIOD UNDER REVIEW (YEAR 2012-2014).

- Item 3. **STEVENSON BOULEVARD (CITY PROPERTY) AND STATE STREET (CITY PROPERTY) – (PLN2014-00198 and PLN2015-00028)** - To consider General Plan Conformity Findings for the sale of two separate City-owned properties, one located on Stevenson Boulevard in the Central Community Plan Area and the

other located on State Street in the Downtown Community Plan Area, and to consider exemptions from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378.

FOUND THAT THE GENERAL PLAN CONFORMITY FINDINGS ARE NOT SUBJECT TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15378, IN THAT THEY ARE NOT PROJECTS AS DEFINED BY CEQA;

AND

FOUND THAT THE LOCATION, PURPOSE AND EXTENT OF THE PROPOSED DISPOSITION OF PROPERTY LOCATED ON THE SOUTH SIDE OF STEVENSON BOULEVARD, WEST OF STEVENSON PLACE, AS SHOWN ON EXHIBIT "A," IS IN CONFORMANCE WITH THE GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT AND EXHIBIT "B;"

AND

FOUND THAT THE LOCATION, PURPOSE AND EXTENT OF THE PROPOSED DISPOSITION OF PROPERTY LOCATED ON THE SOUTHWEST SIDE OF STATE STREET AND FUTURE EXTENSION OF CAPITOL AVENUE TO FREMONT BOULEVARD, AS SHOWN ON EXHIBIT "C," IS IN CONFORMANCE WITH THE GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT AND EXHIBIT "D."

- Item 4. **NATURE'S GIFT - 38255 Blacow Road – (PLN2014-00322)** - To consider an amendment to Conditional Use Permit U-89-5 to increase the capacity of an existing nursery school facility located in the Centerville Community Plan Area from 30 children to 48 children, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15301 (EXISTING FACILITIES);

AND

FOUND THAT THE CONDITIONAL USE PERMIT AMENDMENT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND ECONOMIC DEVELOPMENT ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVED CONDITIONAL USE PERMIT AMENDMENT PLN2014-00322 INCREASING THE CAPACITY OF AN EXISTING NURSERY SCHOOL FACILITY FROM 30 CHILDREN TO 48 CHILDREN BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "A."

**Commissioner Dorsey** noted that the Summary stated the students were as old as age 6, but in Subjects and Conditions age 5 was the oldest child.

After some research, **Principal Planner Morris** stated that age 6 was correct.

**Commissioner Bonaccorsi** stated, as a historical matter, that the entitlements were added in November, 1956, and were practically one of the first after incorporation of the City.

- Item 6. **TALAMORE RESIDENTIAL DEVELOPMENT - 4450 Peralta Boulevard - (PLN2014-00257)** - To consider Vesting Tentative Tract Map No. 8182, Private Streets and a Design Review Permit to allow the development of 16 detached multifamily residences on a 1.13-acre site located in the Centerville Community Plan Area, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, In-Fill Development Projects.

FOUND THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15332, INFILL DEVELOPMENT;

AND

FOUND PLN2014-00257 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE GENERAL PLAN, FREMONT MUNICIPAL CODE AND STATE LAW AS ENUMERATED IN THE STAFF REPORT;

AND

APPROVED VESTING TENTATIVE TRACT MAP NO. 8182, PRIVATE STREET AND DESIGN REVIEW PERMIT TO ALLOW THE DEVELOPMENT OF 16 DETACHED MULTIFAMILY RESIDENCES, AS SHOWN ON EXHIBIT "A," SUBJECT TO FINDINGS AND CONDITIONS CONTAINED IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Pentaleri  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 – Reed  
RECUSE: 0

## **PUBLIC/ORAL COMMUNICATIONS**

## **PUBLIC HEARING ITEMS**

**Vice Chairperson Jones** thanked Mayor Harrison, the Hirsch Family, Lennar Homes and everyone else who was involved with the decision to honor U.S. Marine Corps Lance Corporal Travis Layfield by naming one of the streets after him in the Lennar Homes development. Lance Corporal Layfield was one of his students at Washington

High School and he was killed in Iraq just two months after deployment. His brother, Tyler, is a City police officer with the canine unit.

- Item 5. **HIRSCH RESIDENTIAL PLANNED DISTRICT AMENDMENT - 42800 Caldas Court - (PLN2014-00348)** - To consider an amendment to Planned District P-2012-197 to allow a reduced front yard setback from 10 to seven feet, reduced side yard setbacks from a minimum of six feet to a minimum of five feet on each side, and a reduction in total side yard setbacks from 18 to 10 feet on Lot 33, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

**Vice Chairperson Jones** opened the Public Hearing.

**Brent Reed**, Lennar Homes, stated that the side yard setbacks on the balance of the homes were five and five. Two lots within the development would go back to the sellers, the Hirsch's, of which one of them was Lot 33. The home would be a custom design and still in compliance with the Tentative Map. The future lot owner desired a five-foot setback on each side of the unit for the reasons expressed below. They also wanted to change the front setback from 10 to seven feet. He asked for questions.

**Commissioner Bonaccorsi** asked if the speaker had any response to the letter from Chris Cavette.

**Mr. Reed** was aware of the letter but was not certain of its content.

**Commissioner Bonaccorsi** stated that he would let Mr. Cavette make his statement.

**Mr. Reed** added that the original lot was 110 feet wide and reduced to 95 feet.

**Alice Cavette**, resident adjacent to the Hirsch Planned District, believed that just three ways existed in which one could recommend approval of this amendment:

- The setbacks in the Findings and Conditions, approved by City Council, were unreasonable.
- The size, dimensions or contour of Lot 33 prohibited building a reasonably sized house with these setbacks.
- It was correct to consider the house plans.

The Findings and Conditions required a 10-foot front setback. All neighboring houses had at least that. A combined side setback of 18 feet was reasonable for a lot that was 96 feet wide. The lot was 14,548 square feet and sloped down in the rear with about 8,800 square feet of buildable land, which would leave room for a house of 6,800 square feet with the required setback and in an area where the maximum sized house was less than 4,000 square feet. Should the house design ever dictate the setbacks? This could lead to other developers justifying their setbacks based upon

their house plans. The Staff Report stated that the change was necessary to permit the construction of a house on Lot 33, because the final lot lines were not consistent with the dimensions originally agreed upon between the developer and the property owner. This problem should be left between Lennar and the Hirsches. The City should not solve this issue by lowering its standards.

**Chris Cavette**, resident adjacent to the Hirsch Planned District, stated the original planned district had small setbacks involving the smaller lots and larger setbacks with the larger lots, which were the lots owned by the Hirsch Family and showed the advantage of a planned district. A Condition of Approval was established for Lot 33, because there were no house plans: “Condition 8(a): Setbacks shall be generally larger than the minimums required for the remainder of the subdivision with a minimum of 10 feet in the front yard, six feet in each side yard with a minimum of 18 feet combined for the left and right side yards.” As of January, 2013, the dimensions had been known for a long time, the City had established very specific setbacks that were reasonable for that lot. Now 18 months later, asking that the City change its requirements so that the house would fit, rather than the other way around, was not reasonable.

**Commissioner Bonaccorsi** asked if the speaker had spoken directly with the Hirsch Family about this issue.

**Mr. Cavette** stated that he had not. However, his letter should have been part of the public file.

**Rick Hirsch**, Fremont resident, stated that he was seeking modification of the setbacks for Lot 33, because his lot was 110 feet wide – forget everything else. As the grading plan and the water retention storage had evolved, his lot was squeezed down. That was fine, because it was a large lot and the pad area was ample. However, he intended to build a single-story house there, which required a larger footprint. His future house would not be a 6,000 or 8,000 square foot house, but it would be about 3,100 square feet, smaller than the majority of the Lennar houses. Looking down the street, one would see “garage-door-architecture”, which was the reality of modern development, and he planned to do something different. He planned a “car court” on the right side of his home, which would be a 25 to 27 feet of open area to the face of the curb and it would be much more than a five-foot setback. The left side would have the water treatment area and open space. Again, there would not be a need for more than a five-foot setback when there would be nothing there. It made no sense, whatsoever. As the lot had gone through its evolution and this project became controversial at every turn, the detail of the setbacks fell through the cracks.

**Vice Chairperson Jones** asked what the depth of his planned home would be.

**Mr. Hirsch** was not sure, but he planned to have two wings that would surround a central courtyard with his view corridor straight out the back. Undulations would be created in both the front and rear of the house.

**Vice Chairperson Jones** closed the Public Hearing.

**Chairperson Pentaleri** stated that Mr. Cavette's letter pointed to a discrepancy between the proposed setback that claimed to be equivalent to the adjacent Lennar Homes setback. Were those setbacks the same? Where did those seven-foot setbacks occur in relation to the adjacent homes?

**Principal Planner Morris** replied that clearly the two custom homes could be larger; a minimum of 6,000 and a total of 18,000 square feet. The development front setback was ten feet and this proposal showed seven feet. Staff supported the reduction to seven feet, because of the building undulation with a very small portion of the home pinched to the seven-foot setback. However, the balance of the home would have setbacks of about 13 feet, compared to the other homes in the development that would have exactly 10-foot setbacks. One seven-foot setback would be where the open carport would be located and would be about 25 to 30 feet from the adjacent home.

**Commissioner Bonaccorsi** asked the following:

- Why had this issue had not been addressed sooner?  
*Principal Planner Morris stated that the storm facility had become larger than expected and it was not caught by either staff or the developer earlier. As stated by Mr. Hirsch, the other five-foot setback adjacent to Parcel A was similar to an open space.*
- As mentioned by Mrs. Cavette, today, it was planned to be a 3,100 square foot house, but there was nothing to prevent the owner from tearing it down and building a much larger house with reduced setback requirements already in place. How did staff respond?  
*The side that abuts Lot 32 had a reduction of one foot. Again, on the other side, it was adjacent to what was, essentially, open space. It was not a significant issue.*

**Commissioner Karipineni** asked what the thinking was regarding larger setbacks on the two larger lots.

**Principal Planner Morris** replied that larger homes were expected to be constructed on those larger lots. Lot 22 was the other custom lot; however, it abutted two homes on both sides.

**Commissioner Dorsey** asked the likelihood of others wanting to do the same in the future.

**Principal Planner Morris** felt it was slim to nil. The other home that would be built on Lot 22 was close to receiving a permit and had different characteristics than the rest of the subdivision.

**Vice Chairperson Jones** asked if the setback issue would have to be addressed again if either custom home on either lot was to be torn down and another home to be built on that lot.

**Principal Planner Morris** stated that they could stay within the five and five and seven feet for the front.

**Commissioner Leung** asked if this this project would open the door that would allow future developers to ask for setback readjustment because of the design of a home.

**Principal Planner Morris** did not believe it would happen, because not many subdivisions in the City had custom lots. This was a unique situation.

**Commissioner Bonaccorsi** asked why were the setbacks of every lot in the Lennar project, other than the two custom lots, more locked in. Was it because the rest of the development was within a Planned District with a uniform design for every other home that was not on one of the two custom lots? Would it be slim to nil with the custom lots and nil with the respect of the lots?

**Principal Planner Morris** said that he was correct.

**Chairperson Pentaleri** had believed, at first, that this was an issue between Lennar Homes and the Hirsch Family, as brought up by Mrs. Cavette. It was unfortunate that the design of the house had preceded the final lot definition. Notwithstanding, once the issue was understood, it was reasonable for the applicant to come back to the City to ask for some reasonable relief. He saw no problem with the Applicant coming before the Planning Commission and asking for reconsideration of the setbacks that had clearly been articulated. The request was reasonable. He would support approval.

**Commissioner Reed** asked the City Attorney if he should abstain from this vote, since he had arrived during the discussion of this item.

**Deputy City Attorney Rasiah** replied that if he had been present for a sufficient length of time to understand the project, he could either vote or abstain, as was comfortable.

IT WAS MOVED (KARIPINENI/DORSAY) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL:

- A. FIND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA



GUIDELINES SECTION 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS).

- B. FIND THAT THE PLANNED DISTRICT AMENDMENT IS IN CONFORMANCE WITH THE RELEVANT PROVISION CONTAINED IN THE LAND USE ELEMENT OF THE CITY'S GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT.
- C. FIND THAT THE PROJECT AS SHOWN ON EXHIBIT "A" (SITE PLAN AND FLOOR PLAN), FULFILLS THE APPLICABLE REQUIREMENTS AS SET FORTH IN THE FREMONT MUNICIPAL CODE.
- D. INTRODUCE AN ORDINANCE APPROVING THE AMENDMENT TO PLANNED DISTRICT P-2012-197 AS SHOWN ON EXHIBIT "A," BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 7 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Pentaleri, Reed  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0  
RECUSE: 0

- Item 7. **CHICK-FIL-A - 5539 Auto Mall Parkway - (PLN2014-00249)** - To consider a Design Review Permit to allow development of a 4,526-square-foot fast food restaurant with a drive-through located in the Bayside Industrial Community Plan Area, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures.

**Associate Planner Wage** explained that the parcel was part of Planned District 91-8 that had allowed Wendy's restaurant and Shell service station to be built east of the project site in 2002. A Stay Bridge Hotel and Suites had been approved for the project site in 2012; however, it was never built. This Design Review Permit, typically considered by the Zoning Administrator, was before the Commission, because the original Planned District specified that all new development within this Planned District would be reviewed by the Planning Commission and City Council. The access would be from an existing driveway from Auto Mall Parkway and improvements would be made to a shared access to Christie Street and would include landscaping, development of a parking lot and a low masonry wall that would screen the drive-through. A protected tree would be removed to complete the reciprocal access easement. The building would have stone veneer cladding, wainscoting wrapping around the building, bronze awnings and tower elements that would vary in height to a maximum of 25 feet.

**Commissioner Bonaccorsi** asked why the restaurant would be closed on Sundays. Was no construction on Sundays City-driven or Applicant-driven?

**Vice Chairperson Jones** opened the Public Hearing.

**Deborah Kerr**, Consulting Project Manager, stated that closing on Sunday was a company policy. She assumed that it was City-driven, but it would be Chick-Fil-A's policy, as well.

**Deputy City Attorney Rasiah** stated that the Municipal Code discussed construction hours as generally prohibited on Sundays.

**Vice Chairperson Jones** asked if an ED charging station might be installed in the parking lot.

**Ms. Kerr** stated that was something they, typically, did.

**Deputy City Attorney Rasiah** suggested that the staff conclude the presentation; questions be directed to staff; the Applicant make her 10-minute formal presentation, the public make comments and ask questions; and the Applicant give a five-minute rebuttal.

**Ms. Kerr** asked for questions. For the record, they agreed with all of the Conditions of Approval for the project.

**Commissioner Leung** asked how many other restaurants were in the Bay Area at this time.

**Ms. Kerr** stated that five were open currently. One in Novato, North San Jose, Sunnyvale, Walnut Creek and Fairfield.

**Vice Chairperson Jones** closed the Public Hearing.

**Commissioner Karipineni** asked why a stamped concrete pedestrian walkway would be located just after a curve and through the drive-through lane

**Associate Planner Wage** said that the City encouraged a stamped pedestrian walkway, which highlighted the visibility of the crossing.

**Ms. Kerr** added that there would be two crossings: one closer the street that would act as access to a service area for employees; and the other to provide pedestrian access and connectivity within the site. It was very common, because it was difficult to not have a pedestrian crossing a drive-through at some point. For the most part, people would be coming into the building from the north.

**Principal Planner Morris** stated that access to the public sidewalk must be available and the drive-through would have to be crossed someplace, because it would go all around the building.

**Commissioner Reed** stated that, as a fervent supporter of equality and rights for the LGBT community, he would abstain from voting on this project.

**Commissioner Bonaccorsi** shared **Commissioner Reed**'s view, but since it was not within the Commission's purview, he would move for approval.

IT WAS MOVED (BONACCORSI/LEUNG) AND CARRIED BY THE FOLLOWING VOTE (7-0-1-0-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL:

FIND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER CEQA GUIDELINES SECTION 15303, NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES;

AND

FIND THAT THE DESIGN REVIEW PERMIT (PLN2014-00249) IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE ELEMENT AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE THE DESIGN REVIEW PERMIT (PLN2014-00249) AS DEPICTED IN EXHIBIT "A", BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B;"

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR ONE PROTECTED TREE PURSUANT TO THE REQUIREMENTS OF THE TREE PRESERVATION ORDINANCE. 6. INTRODUCE AN ORDINANCE RESCINDING ORDINANCE NO. 15-2012 REGARDING THE DEVELOPMENT OF A HOTEL ON THE SUBJECT SITE.

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Pentaleri

NOES: 0

ABSTAIN: 1 – Reed

ABSENT: 0

RECUSE: 0

**Vice Chairperson Jones** called a recess for the stenographer at 7:58 p.m.

**Vice Chairperson Jones** called the meeting back to order at 8:10 p.m.

Item 8. **TESLA FREESTANDING POLE SIGN - 45500 Fremont Boulevard - (PLN2014-00356)** - To consider a Conditional Use Permit for a 6,300-square-foot freestanding pole sign at the Tesla Motors factory located in the South Fremont Community Plan Area, and to consider a categorical exemption from the

requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15311, Accessory Structures.

**Planner Willis** stated that the sign would be located adjacent to the new Thermo Fisher building and oriented towards I-880. The design would be reviewed by the Zoning Administrator as part of the Master Sign Program currently being considered by staff. The proposed sign would help to screen the Tesla plant truck dock from I-880 and would include a landscaped area around its base. It would be used to only advertise products manufactured onsite. It would not be electronic and the illumination levels and colors would remain static. A Condition of Approval would require that sign be removed if the site were subdivided in the future.

**Vice Chairperson Jones** opened the Public Hearing.

**Joe Kavanaugh**, applicant, stated that this sign would provide advertisement for the company, since their next door neighbor's building had blocked the view of the Tesla building and their current sign from I-880. Landscaping would beautify the southern edge of their property, which, currently, looks like "Contractor Row." This sign would also shed some light on the City of Fremont as to where Tesla cars were manufactured. The exact graphic had not been decided upon. This was not a large sign. City code allowed 60 square feet of signage for every elevation of 20 feet. One elevation of the Tesla building was 3,000 square feet long.

**Commissioner Bonaccorsi** asked about the thought process for having a sign in the first instance. Their building had been used by General Motors for many years and they had not had or needed a sign. With the electronic age and people obtaining information from the internet, he wondered about using a sign as a way of creating visibility in a 21<sup>st</sup> Century era.

**Mr. Kavanaugh** replied that trees blocked a large portion of the frontage of the property from I-880 and most of the visibility was along the southern edge when driving north when a glimpse could be caught of the building. After the neighbor's building was constructed, that glimpse was gone.

**Commissioner Bonaccorsi** asked if he was referring to Thermo Fisher as "the neighbor." According to the staff report, they had no objection to a sign. Had he reached out to them? What was the proximity of the sign to I-880? Did he know the height of the Pacific Commons sign was nearby?

**Mr. Kavanaugh** said that yes, Thermo Fisher was the new neighbor and they had had a meeting with them a week ago where they had no objections to the sign. There was I-880, a setback, the landscaped strip, Cato Road and their property line. The sign would be about 35 feet from that property line.

**Principal Planner Morris** answered that it was 120 feet high. The proximity of the Tesla sign to I-880 would be about 146 feet.

**Commissioner Bonaccorsi** asked and **Principal Planner Morris** agreed that this sign would be one-fourth the height of the Pacific Commons sign.

**Commissioner Reed** noted that Tesla encompassed innovation, 4,000 jobs and was leading the way to energy independence. His hat was off to Elan Musk and all of the Tesla workers. It was wonderful to have the City of Fremont affiliated with them. He wondered why that sign would not be larger. He would support this application.

**Commissioner Leung** also wondered why the height was not higher, since the sign would be ten feet off the ground and the height of the sign would be 30 feet tall making the total height 40 feet. When she drove by the site today, she thought it might be a little too low. Would “Tesla” be on the signage, along with a picture of the car?

**Principal Planner Morris** stated that 40 feet would be a sufficient height.

**Mr. Kavanaugh** agreed with the height, which would block some of the activity going on behind it, as well as enhancing the view. Yes, the plan was to have the Tesla name and their brand on the sign.

**Commissioner Karipineni** asked about the thinking behind the decision for this particular size and this particular location for the sign. Did he expect this sign to drive additional traffic to the factory or was it more a general branding plan?

**Mr. Kavanaugh** stated that the location was easy and the size was appropriate for the size of the building. They would welcome anyone who drove into the factory and bought a car at any time.

**Chairperson Pentaleri** asked if a proposal had been submitted for consideration by the Zoning Administrator. He mentioned a letter from a constituent that recalled how visual blight had been a problem a few years ago. He did not remember that the Thermo Fisher building intruded on the wonderful logo on the side of the building that was highly visible. Was the argument that the Thermo Fisher building obscured that Tesla signage that was already up on the side of their building?

**Principal Planner Morris** answered that a proposal had been submitted.

**Mr. Kavanaugh** stated that the Thermo Fisher building was part of the reason for this application, as the signage was partially blocked by the building. The ability to see the current Tesla sign was also amplified when moving at highway speeds.

**Principal Planner Morris** added that he had driven northbound on I-880 today and as he came under the underpass from Mission Boulevard, he was parallel to the Thermo Fisher building before he could see the Tesla sign.

**Commissioner Bonaccorsi** asked if the staff and the applicant were saying that the genesis for coming forward with this sign was because of the Thermo Fisher building

or had this application been submitted prior to the construction of the Thermo Fisher construction.

**Mr. Kavanaugh** was not certain of the exact motivation for this sign. This project was dropped on his desk after he had come to work for Tesla.

**Vice Chairperson Jones** stated that he discovered while driving by the site that the sign would only be visible while driving on northbound I-880 and would not be visible, at all, when driving southbound. The height would be such that it would actually blend in to the background of the Tesla facility.

**Mr. Kavanaugh** had no closing remarks.

**Vice Chairperson Jones** closed the Public Hearing.

**Chairperson Pentaleri** noted that the staff report stated: "A larger sign may be achieved through approval of a Master Sign Program," which seemed that the Master Sign Program should be provided as part of the information needed to support this CUP. His concern was that this application seemed to be out of sequence. Therefore, he would abstain from the vote.

**Commissioner Bonaccorsi** asked if the Commission should be interested in looking at the free-standing sign, only. Would all other issues, such as dimensions, glare, etc., would be deferred to the Zoning Administrator?

**Principal Planner Morris** stated that he was correct.

**Commissioner Bonaccorsi** stated that some comments appeared to be more toward matters of concern that would be addressed by the Zoning Administrator. What course should the members of the public take to be heard before those decisions were made?

**Deputy City Attorney Rasiah** said that could be done during the scheduled hearing before the Zoning Administrator at a future date. Notice would be put on the City's website and notices would be sent out similar to how Planning Commission items were noticed.

**Commissioner Bonaccorsi** commented that this sign seemed to be very modest when compared to the sign for Pacific Commons.

IT WAS MOVED (REED/BONACCORSI) AND CARRIED BY THE FOLLOWING VOTE (7-0-1-0-0) THE PLANNING COMMISSION – FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15311 (ACCESSORY STRUCTURES);

AND

FOUND THAT THE CONDITIONAL USE PERMIT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND ECONOMIC DEVELOPMENT ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FOUND THAT THE PROJECT AS SHOWN ON EXHIBIT "A" (SITE PLAN AND ELEVATIONS), FULFILLS THE APPLICABLE REQUIREMENTS AS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

APPROVED CONDITIONAL USE PERMIT PLN2014-00356 AS SHOWN ON EXHIBIT "A," BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Reed  
NOES: 0  
ABSTAIN: 1 – Pentaleri  
ABSENT: 0  
RECUSE: 0

## DISCUSSION ITEMS

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.  
**Principal Planner Morris** announced that the next Planning Commission meeting would be held on September 11<sup>th</sup>.
  - Report on actions of City Council Regular Meeting  
None.
- Information from Commission: Commission members may report on matters of interest.

Meeting adjourned at 8:35 p.m.

SUBMITTED BY:



Alice Malotte  
Recording Clerk

APPROVED BY:



Wayne Morris, Secretary  
Planning Commission